

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

TIMOTHY RYAN GOVE,

Plaintiff,

v.

Case No. 18-cv-1335-pp

SARGENTO FOODS, INC.,

Defendant.

ORDER GRANTING MOTION TO QUASH SUBPOENA (DKT. NO. 65)

Kelly Buechel, a non-party, has filed a motion to quash the “Subpoena to Testify at a Deposition in a Civil Action” served by the plaintiff on Ms Buechel and her husband, Jeffrey Buechel.¹ Dkt. No. 65. She explains that on June 12, 2022, her husband was given a subpoena (she does not say by whom) to appear for a deposition at the Kaukauna Library in Kaukauna, Wisconsin on July 5, 2022 at 9:35 a.m. Id. at 1. Ms. Buechel indicates that she and her husband were neighbors of the plaintiff at one point in the past, but that her husband had spoken to the plaintiff only “a few times” and that she never had spoken with the plaintiff, been near him or known his name prior to receiving the subpoena. Id.

¹ It is unclear whether the plaintiff wants both Ms. Buechel and her husband to testify at the deposition. The subpoena names only Mr. Buechel but the attachment to the subpoena references “JEFFREY BUECHEL/SPOUSE.” Dkt. No. 65-1 at 2.

The plaintiff has sued his former employer, Sargento Foods, Inc., alleging retaliatory firing, as well as discrimination and harassment from former co-workers at Sargento. Dkt. No. 20. The second amended complaint does not mention the Buechels. In the motion, Ms. Buechel affirmatively states that “[w]e have nothing to do with [the plaintiff], Sargento Foods, or this court case.” Dkt. No. 65 at 1. Nor is the information the plaintiff seeks from the Buechels related to the plaintiff’s claims. The plaintiff attached to the subpoena a list of questions, with an explanation saying “[t]his subpoena commands you to answer the questions honestly in this written deposition hearing” and “[if] you lie on any of the questions, I will consider legal options.” Dkt. No. 65-1 at 2. None of the questions have any bearing on the plaintiff’s employment discrimination claims and several constitute personal or inappropriate questions about the Buechels’ minor daughter, such as: “What is your oldest daughter’s name, and how old was she in 2019?” and “Who approached/hired/or you volunteered to have your daughter entice me from April of 2019 thru November of 2019?” Id.

Federal Rule of Civil Procedure 26(b)(1) allows a party to obtain discovery “regarding any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case,” while considering, among other things, “whether the burden or expense of the proposed discovery outweighs its likely benefit.” The court is at a loss to understand how the plaintiff’s former neighbors or their minor daughter have information relevant to the plaintiff’s employment discrimination claims and how the burden of one

or both of them appearing for a deposition to answer the questions the plaintiff has posed does not outweigh any possible benefit their testimony may provide.

The court may quash a subpoena that “subjects a person to undue burden.” Fed. R. Civ. P. 45(d)(3)(A)(iv). Ms. Buechel has stated that the subpoena “subjects [her] family to ‘undue burden.’” Dkt. No. 65 at 1. She says that her husband would have to take a day off work to testify and that the Buechels feel they would have to hire an attorney to protect their daughter and their rights. Id. at 1-2. That burden outweighs any possible benefit their testimony might provide—particularly because the court cannot imagine any such benefit. The plaintiff does not need personal information about his former neighbors or their minor daughter to pursue his claims that he was subject to employment discrimination at the hands of Sargento or its employees. The court will grant the motion to quash.

The court **GRANTS** the Buechels’ motion to quash. Dkt. No. 65.

The court **ORDERS** that neither Jeffrey Buechel nor Kelly Buechel is required to respond to the plaintiff’s subpoena or to appear for the deposition.

Dated in Milwaukee, Wisconsin this 15th day of June, 2022.

BY THE COURT:



HON. PAMELA PEPPER
Chief United States District Judge